

State of Alaska's regulations governing the salmon troll fishery off Southeast Alaska. Because no commercial fishing for salmon is allowed in the EEZ west of Cape Suckling, all commercial salmon fishing west of Cape Suckling must take place in Alaska's territorial sea and, consequently, is subject to Alaska's management authority.

(4) For State of Alaska statutes and regulations governing commercial fishing, see Alaska Statutes, title 16—Fish and Game; title 5 of the Alaska Administrative Code, chapters 1-39.

(5) For State of Alaska regulations specifically governing the salmon troll fishery, see 5 Alaska Administrative Code 30 (Yakutat Area), and 5 Alaska Administrative Code 33 (Southeastern Alaska Area).

(6) For State of Alaska statutes and regulations governing sport and personal use salmon fishing other than subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 42.010 through 75.995.

(7) For State of Alaska statutes and regulations governing subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 01, 02, 39, and 99.010.

(g) *Scallops*. Additional regulations governing conservation and management of scallops off Alaska are contained in Alaska Statutes A.S. 16 and Alaska Administrative Code at 5 AAC Chapter 38.

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EFFECTIVE DATE NOTE: At 63 FR 47356, Sept. 4, 1998, §679.3 was amended by revising paragraph (b), effective Oct. 5, 1998.

§679.4 Permits.

(a) *General requirements*—(1) *Application*. (i) A person may obtain or renew an application for any of the permits under this section and must mail completed forms to the Chief, RAM Division.

(ii) Upon receipt of an incomplete or improperly completed permit application, the Chief, RAM Division, will notify the applicant of the deficiency in the permit application. If the applicant

fails to correct the deficiency, the permit will not be issued. No permit will be issued to an applicant until a complete application is received.

(iii) A separate application must be completed for each vessel, processor, or buying station and a copy must be retained of each completed or revised application.

(iv) The information requested on the application must be typed or printed legibly.

(2) *Amended applications*. An owner, operator, or manager who applied for and received a permit under this section must notify the Chief, RAM Division, in writing, of any change in the information within 10 days of the date of that change.

(3) *Alteration*. No person may alter, erase, or mutilate any permit, card, or document issued under this section. Any such permit, card, or document that is intentionally altered, erased, or mutilated is invalid.

(4) *Disclosure*. NMFS will maintain a list of permitted processors that may be disclosed for public inspection.

(5) *Sanctions and denials*. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(6) *Harvesting privilege*. Quota shares, permits, or licenses issued pursuant to this part are neither a right to the resource nor any interest that is subject to the "takings" provision of the Fifth Amendment to the U.S. Constitution. Rather, such quota shares, permits, or licenses represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable law.

(b) *Federal Fisheries permit*—(1) *Groundfish*. No vessel of the United States may be used to fish for groundfish in the GOA or BSAI unless the owner first obtains a Federal fisheries permit for the vessel, issued under this part. A Federal fisheries permit is issued without charge.

(2) *Non-groundfish*. A vessel of the United States that fishes in the GOA or BSAI for any non-groundfish species, including but not limited to halibut, crab, salmon, scallops, and herring, and that does not retain any bycatch of groundfish is not required to obtain a

Federal fisheries permit under this part.

(3) *Vessel operations categories.* (i) A Federal fisheries permit authorizes a vessel to conduct operations in the GOA and BSAI as a catcher vessel, catcher/processor, mothership, tender vessel, or support vessel.

(ii) A vessel may be issued a Federal fisheries permit as a support vessel or as any combination of the other four categories (catcher vessel, catcher/processor, mothership, tender vessel). A vessel permitted as a catcher vessel, catcher/processor, mothership, or tender vessel also may conduct all operations authorized for a support vessel.

(4) *Duration.* (i) A Federal fisheries permit is issued on a 3-year cycle and is in effect from the date of issuance through the end of the current NMFS 3-year cycle, unless it is revoked, suspended, or modified under § 600.735 or § 600.740 of this chapter.

(ii) A Federal fisheries permit is surrendered when the original permit is submitted to and received by the NMFS Enforcement Office in Juneau, AK.

(5) *Application.* A complete application for a Federal fisheries permit must include the following information for each vessel:

(i) *Amended permit.* If application is for an amended permit, the current Federal fisheries permit number and information that has changed.

(ii) *Vessels.* The complete name and homeport (city and state) of the vessel; the ADF&G vessel number; the USCG documentation number or Alaska registration number; the vessel's LOA and registered net tonnage; and the telephone, fax, and COMSAT (satellite communication) numbers used on board the vessel.

(iii) *Owner information.* The owner of the vessel must record the owner's name, permanent business mailing address, telephone and fax numbers; and the name of any company (other than the owner) that manages the operations of the vessel or shoreside processor.

(iv) *Federal fisheries permit information.* The owner of the vessel must record:

(A) The fishery or fisheries and the vessel operations category for which

the permit would apply, as set forth under paragraph (b)(3) of this section.

(B) If a catcher vessel or catcher/processor, the gear type(s) used for groundfish operations.

(C) If a catcher vessel, whether groundfish is retained only as bycatch from halibut, crab, or salmon fisheries; and whether sablefish is the only groundfish targeted in the GOA.

(D) If a mothership or catcher/processor, whether inshore or offshore, to indicate component in which Pacific cod in the GOA or pollock will be processed for the entire fishing year.

(v) *Signature.* The owner of the vessel must sign and date the application.

(6) *Issuance.* (i) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed permit application, the Regional Administrator will issue a Federal fisheries permit required by this paragraph (b).

(ii) The Regional Administrator will send the Federal fisheries permit to the applicant with the appropriate logbooks, as provided under § 679.5.

(7) *Amended application.* If the application for an amended permit required under this section designates a change or addition of a vessel operations category, the amended permit must be on board the vessel before the new type of operations begins.

(8) *Transfer.* A Federal fisheries permit issued under this paragraph (b) is not transferable or assignable and is valid only for the vessel for which it is issued.

(9) *Inspection.* (i) An original Federal fisheries permit issued under this paragraph (b) must be carried on board the vessel whenever the vessel is fishing. Photocopied or faxed copies are not considered originals.

(ii) A permit issued under this paragraph (b) must be presented for inspection upon the request of any authorized officer.

(c) *Moratorium permits (applicable through December 31, 1998)—(1) General—*

(i) *Applicability.* Except as provided under paragraph (c)(2) of this section, any vessel used to catch and retain any moratorium crab species or to conduct directed fishing for any moratorium groundfish species must have a valid moratorium permit issued for that vessel under this part on board the vessel

at all times it is engaged in fishing activities.

(ii) *Duration.* The moratorium permit is valid for the duration of the moratorium, unless otherwise specified.

(iii) *Validity.* A moratorium permit issued under this part is valid only if:

(A) The vessel's LOA does not exceed the maximum LOA as specified in § 679.2;

(B) The vessel's moratorium qualification has not been transferred;

(C) The permit has not been revoked or suspended under 15 CFR part 904;

(D) The permit is endorsed for all gear types on board the vessel; and

(E) The permit's term covers the fishing year in which the vessel is fishing.

(iv) *Inspection.* A moratorium permit must be presented for inspection upon the request of any authorized officer.

(2) *Moratorium exempt vessels.* (i) A moratorium exempt vessel is not subject to the moratorium permit requirement of paragraph (c)(1) of this section and is not eligible for a moratorium permit.

(ii) A moratorium exempt vessel may catch and retain moratorium species, provided it complies with the permit requirements of the State of Alaska with respect to moratorium crab species, Federal permit requirements in this part with respect to moratorium groundfish species, and other applicable Federal and State of Alaska regulations.

(3) *Moratorium exempt vessel categories.* A moratorium exempt vessel is a vessel in any of the following categories:

(i) Vessels other than catcher vessels or catcher/processor vessels.

(ii) Catcher vessels or catcher/processor vessels less than or equal to 26 ft (7.9 m) LOA that conduct directed fishing for groundfish in the GOA.

(iii) Catcher vessels or catcher/processor vessels less than or equal to 32 ft (9.8 m) LOA that catch and retain moratorium crab species in the Bering Sea and Aleutian Islands Area or that conduct directed fishing for moratorium groundfish species in the BSAI.

(iv) Catcher vessels or catcher/processor vessels that are fishing for IFQ halibut, IFQ sablefish, or halibut or sablefish under the Western Alaska CDQ Program in accordance with regulations at subpart C of this part and that

are not directed fishing for any moratorium species.

(v) Catcher vessels or catcher/processor vessels less than or equal to 125 ft (38.1 m) LOA that after November 18, 1992, are specifically constructed for and used in accordance with a CDP under § 679.30, and that are designed and equipped to meet specific needs described in the CDP.

(4) *Moratorium permit endorsements—*

(i) *General.* A moratorium permit will be endorsed for one or more fishery-specific gear type(s) in accordance with the endorsement criteria of paragraph (c)(5) of this section.

(ii) *Authorization.* A fishery-specific gear type endorsement authorizes the use by the vessel of that gear type in the specified fisheries.

(iii) *Fishing gear requirements.* (A) Fishing gear requirements for the Bering Sea and Aleutian Islands Area crab fisheries are set forth in the Alaska Administrative Code at title 5, chapters 34 and 35.

(B) Fishing gear requirements for the GOA and the BSAI groundfish fisheries are set forth under § 679.24.

(C) A moratorium permit may be endorsed for any one or a combination of the following fishing gear types:

(1) Trawl, which includes pelagic and nonpelagic trawl gear.

(2) Pot, which includes longline pot and pot-and-line gear.

(3) Hook, which includes hook-and-line and jig gear.

(5) *Gear endorsement criteria.* For purposes of this paragraph (c)(5), the period January 1, 1988, through February 9, 1992, is "period 1," and February 10, 1992, through December 11, 1994, is "period 2." Fishery-specific gear type endorsement(s) will be based on the following criteria:

(i) *Crab fisheries/pot gear.* A moratorium permit for a vessel may be endorsed for crab fisheries/pot gear if the vessel made a legal landing:

(A) Of a moratorium crab species in period 1;

(B) Of a moratorium groundfish species with any authorized fishing gear in period 1, and, in period 2, made a legal landing of a moratorium crab species; or

(C) Of moratorium groundfish in period 1 with pot gear.

(ii) *Groundfish fisheries/rawl gear.* A moratorium permit may be endorsed for groundfish fisheries/rawl gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1, and, in period 2, made a legal landing of a moratorium groundfish species using trawl gear.

(iii) *Groundfish fisheries/pot gear.* A moratorium permit may be endorsed for groundfish fisheries/pot gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1.

(iv) *Groundfish fisheries/hook gear.* A moratorium permit may be endorsed for groundfish fisheries/hook gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1, and, in period 2, made a legal landing of a moratorium groundfish species using hook gear.

(6) *Application for permit.* A moratorium permit will be issued to the owner of a vessel of the United States if he/she submits to the Regional Administrator a complete moratorium permit application that is subsequently approved and if the vessel's LOA does not exceed the maximum LOA as specified in § 679.2. A complete application for a moratorium permit must include the following information for each vessel:

(i) Name of the vessel, state registration number of the vessel and the USCG documentation number of the vessel, if any.

(ii) Name(s), business address(es), and telephone and fax numbers of the owner of the vessel.

(iii) Name of the managing company.

(iv) Valid documentation of the vessel's moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel from January 1, 1988, through February 9, 1992.

(v) Reliable documentation of the vessel's original qualifying LOA, if re-

quested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, fishing permit records, or other reliable and probative documents that clearly identify the vessel and its LOA, and that are dated before June 24, 1992.

(vi) Specification of the fishing gear(s) used from January 1, 1988, through February 9, 1992, and, if necessary, the fishing gear(s) used from February 10, 1992, through December 11, 1994.

(vii) Specification of the vessel as either a catcher vessel or a catcher/processor vessel.

(viii) If applicable, transfer authorization if a permit request is based on transfer of moratorium qualification pursuant to paragraph (c) of this section.

(ix) Signature of the person who is the owner of the vessel or the person who is responsible for representing the vessel owner.

(7) *Moratorium qualification.* A vessel has moratorium qualification if:

(i) The vessel is an original qualifying vessel;

(ii) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(iii) The vessel's moratorium qualification has not been transferred;

(iv) The vessel receives a valid moratorium qualification through a transfer approved by the Regional Administrator under paragraph (c)(9) of this section; and

(v) That moratorium qualification is not subsequently transferred.

(8) *Application for moratorium qualification transfer—(i) General.* An application for approval of a transfer of moratorium qualification (see paragraph (c)(9) of this section) must be completed and the transfer approved by the Regional Administrator before an application for a moratorium permit based on that transfer can be approved. An application for approval of a transfer and an application for a moratorium permit may be submitted simultaneously.

(ii) *Contents of application.* A complete application for approval of transfer must include the following information, as applicable, for each vessel involved in the transfer of moratorium qualification:

(A) Name(s), business address(es), and telephone and fax numbers of the applicant(s) (including the owners of the moratorium qualification that is to be or was transferred and the person who is to receive or received the transferred moratorium qualification).

(B) Name of the vessel whose moratorium qualification is to be or was transferred and the name of the vessel that would receive or received the transferred moratorium qualification (if any), the state registration number of each vessel and, if documented, the USCG documentation number of each vessel.

(C) The original qualifying LOA of the vessel whose moratorium qualification is to be or was transferred, its current LOA, and its maximum LOA.

(D) The LOA of the vessel that would receive or received the transferred moratorium qualification and documentation of that LOA by a current vessel survey or other reliable and probative document.

(E) Signatures of the persons from whom moratorium qualification would be transferred or their representative, and the persons who would receive the transferred moratorium qualification or their representative.

(iii) *Contract or agreement.* A legible copy of a contract or agreement must be included with the application for transfer that specifies the vessel or person from which moratorium qualification is to be or is transferred, the date of the transfer agreement, names and signatures of all current owner(s) of the vessel whose moratorium qualification is to be or was transferred, and names and signatures of all current owner(s) of the moratorium qualification that is to be or was transferred.

(iv) *Vessel reconstruction.* The following information must be included with the application for transfer:

(A) A legible copy of written contracts or written agreements with the firm that performed reconstruction of the vessel and that relate to that reconstruction.

(B) An affidavit signed by the vessel owner(s) and the owner/manager of the firm that performed the vessel reconstruction, specifying the beginning and ending dates of the reconstruction.

(C) An affidavit signed by the vessel owner(s) specifying the LOA of the reconstructed vessel.

(v) *Vessels lost or destroyed.* A copy of USCG Form 2692, Report of Marine Casualty, must be included with the application for transfer.

(9) *Transfer of moratorium qualification (applicable through December 31, 1998)—*

(i) *General.* A transfer of a vessel's moratorium qualification must be approved by the Regional Administrator before a moratorium permit may be issued under this section for the vessel to which the qualification is transferred. A moratorium permit is not transferrable or assignable. A fishery-specific gear type endorsement(s) is not severable from an endorsed permit. A transfer of moratorium qualification will not be approved by the Regional Administrator unless:

(A) A complete transfer application that satisfies all requirements specified in paragraph (c)(8) of this section is submitted;

(B) The LOA of the vessel to which the moratorium qualification is transferred does not exceed the maximum LOA of the original qualifying vessel; and

(C) The moratorium permit associated with the moratorium qualification is not revoked or suspended.

(ii) *Vessels lost or destroyed in 1988.* The moratorium qualification of a vessel that was lost or destroyed before January 1, 1989, may not be transferred to another vessel and is not valid for purposes of issuing a moratorium permit for that vessel, if salvaged, unless salvage began on or before June 24, 1992, and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of such a vessel is not valid for purposes of issuing a moratorium permit for 1998 unless that vessel is used to make a legal landing of a moratorium species from January 1, 1996, through December 31, 1997.

(iii) *Vessels lost or destroyed from 1989 through 1995.* The moratorium qualification of any vessel that was lost or

destroyed on or after January 1, 1989, but before January 1, 1996, is valid for purposes of issuing a moratorium permit for that vessel, if salvaged, regardless of when salvage began, provided that the vessel has not already been replaced and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1989, but before January 1, 1996, may be transferred to another vessel, provided the LOA of that vessel does not exceed the maximum LOA of the original qualifying vessel. The moratorium qualification of such a vessel is not valid for purposes of issuing a moratorium permit for 1998, unless that vessel is used to make a legal landing of a moratorium species from January 1, 1996, through December 31, 1997.

(iv) *Vessels lost or destroyed after 1995.* The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1996, is valid for purposes of issuing a moratorium permit for that vessel, if salvaged, regardless of when salvage began, provided that the vessel has not already been replaced and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of any vessel that is lost or destroyed on or after January 1, 1996, may be transferred to another vessel, providing the LOA of that vessel does not exceed the maximum LOA of the original qualifying vessel.

(v) *Reconstruction.* The moratorium qualification of a vessel is not valid for purposes of issuing a moratorium permit if, after June 23, 1992, reconstruction is initiated that results in increasing the LOA of the vessel to exceed the maximum LOA of the original qualifying vessel. For a vessel whose reconstruction began before June 24, 1992, and was completed after June 24, 1992, the maximum LOA is the LOA on the date reconstruction was completed, provided the owner files an application for transfer and the Regional Administrator certifies that maximum LOA and approves the transfer based on information concerning the LOA of the reconstructed vessel submitted under paragraph (c)(8)(iv) of this section.

(10) *Appeal*—(i) *Determination.* The Chief, RAM Division, will issue an initial administrative determination to each applicant who is denied a moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Regional Administrator, within the period specified at § 679.43.

(ii) *Permit denial.* An initial administrative determination that denies an application for a moratorium permit must authorize the affected vessel to catch and retain moratorium crab or moratorium groundfish species with the type of fishing gear specified on the application. The authorization expires on the effective date of the final agency action relating to the application.

(iii) *Final action.* An administrative determination denying approval of the transfer of a moratorium qualification and/or denying the issuance of a moratorium permit based on that moratorium qualification is the final agency action for purposes of judicial review.

(d) *IFQ*—(1) *General.* In addition to the permit and licensing requirements prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title and in the permit requirements of this section, all fishing vessels that harvest IFQ halibut or IFQ sablefish must have on board:

(i) *IFQ permit.* A copy of an IFQ permit that specifies the IFQ regulatory area and vessel category in which IFQ halibut or IFQ sablefish may be harvested by the IFQ permit holder and a copy of the most recent accompanying statement specifying the amount of each species that may be harvested during the current IFQ fishing season; and

(ii) *IFQ card.* An original IFQ card issued by the Regional Administrator.

(2) *Registered buyer permit.* Any person who receives IFQ halibut or IFQ sablefish from the person(s) that harvested the fish must possess a registered buyer permit, except under conditions of paragraph (d)(2) (i), (ii), or (iii) of this section. A registered buyer permit

also is required of any person who harvests IFQ halibut or IFQ sablefish and transfers such fish:

- (i) In a dockside sale;
- (ii) Outside of an IFQ regulatory area; or
- (iii) Outside the State of Alaska.

(3) *Permit issuance*—(i) *IFQ permits and cards*—(A) *Issuance*. IFQ permits and cards will be renewed or issued annually by the Regional Administrator to each person with approved QS for IFQ halibut or IFQ sablefish allocated in accordance with this section.

(B) *IFQ permit*. Each IFQ permit issued by the Regional Administrator will identify the permitted person and will be accompanied by a statement that specifies the amount of IFQ halibut or IFQ sablefish that person may harvest from a specified IFQ regulatory area using fixed gear and a vessel of a specified vessel category.

(C) *IFQ card*. Each IFQ card issued by the Regional Administrator will display an IFQ permit number and the individual authorized by the IFQ permit holder to land IFQ halibut or IFQ sablefish for debit against the permit holder's IFQ.

(ii) *Registered buyer permits*. Registered buyer permits will be renewed or issued annually by the Regional Administrator to persons that have a registered buyer application approved by the Regional Administrator.

(4) *Duration*—(i) *IFQ permit*. An IFQ permit authorizes the person identified on the permit to harvest IFQ halibut or IFQ sablefish from a specified IFQ regulatory area at any time during an open fishing season during the fishing year for which the IFQ permit is issued until the amount harvested is equal to the amount specified under the permit, or until it is revoked, suspended, or modified under 15 CFR part 904.

(ii) *IFQ card*. An IFQ card authorizes the individual identified on the card to land IFQ halibut or IFQ sablefish for debit against the specified IFQ permit until the card expires, or is revoked, suspended, or modified under 15 CFR part 904, or cancelled on request of the IFQ permit holder.

(iii) *Registered buyer permit*. A registered buyer permit authorizes the person identified on the permit to receive or make an IFQ landing by an

IFQ permit or card holder at any time during the fishing year for which it is issued until the registered buyer permit expires, or is revoked, suspended, or modified under 15 CFR part 904.

(5) *Transfer*. The IFQ permits issued under this section are not transferable, except as provided under § 679.41. IFQ cards and registered buyer permits issued under this paragraph (d) are not transferable.

(6) *Inspection*—(i) *IFQ permit*. A legible copy of any IFQ permit issued under this section must be carried on board the vessel used by the permitted person to harvest IFQ halibut or IFQ sablefish at all times that such fish are retained on board.

(ii) *IFQ card*. Except as specified in § 679.42(d), an individual that is issued an IFQ card must remain aboard the vessel used to harvest IFQ halibut or IFQ sablefish with that card during all fishing operations until arrival at the point of landing and during all IFQ landings. The IFQ cardholder must present a copy of the IFQ permit and the original IFQ card for inspection on request of any authorized officer, clearing officer, or registered buyer purchasing IFQ species. Nothing in this paragraph would prevent an individual who is issued an IFQ card from being absent from the vessel used to harvest IFQ halibut or IFQ sablefish between the time the vessel arrives at the point of landing until the commencement of landing.

(iii) *Registered buyer permit*. A legible copy of the registered buyer permit must be present at the location of an IFQ landing, and must be made available for inspection on request of any authorized officer or clearing officer.

(e) *Halibut/sablefish CDQ permits and CDQ cards*. See § 679.33(a) and (b).

(f) *Federal processor permit*—(1) *Requirement*. No shoreside processor of the United States or vessel of the United States operating solely as a mothership in Alaska State waters may receive or process groundfish harvested in the GOA or BSAI, unless the owner first obtains a Federal processor permit issued under this part. A Federal processor permit is issued without charge.

(2) *Application.* A complete application for a Federal processor permit must include the following:

(i) If the application is for an amended permit, the current Federal processor permit number and an update of the permit information that has changed.

(ii) The shoreside processor's name, business street address, telephone number, and fax number.

(iii) The shoreside processor owner's name or names, business mailing address, managing company, if any, telephone number, ADF&G Processor Code, and fax number.

(iv) Indication of the fishery or fisheries for which the permit is requested.

(v) Indication of the shoreside processor operations category.

(vi) The owner of the shoreside processor must sign and date the application.

(3) *Issuance.* (i) Upon receipt of a properly completed permit application, the Regional Administrator will issue a Federal processor permit required by this paragraph (f).

(ii) The Regional Administrator will send the Federal processor permit to the applicant with the shoreside processor logbook, as provided under § 679.5.

(4) *Duration.* (i) A Federal processor permit is issued for a 3-year period and remains in full force and effect from the date of issuance through the end of the current NMFS 3-year renewal cycle, unless it is revoked, suspended, or modified under § 600.735 or § 600.740 of this chapter.

(ii) A Federal processor permit is surrendered when the original permit is submitted to and received by the Chief, RAM Division, NMFS.

(5) *Transfer.* A Federal processor permit issued under this paragraph (f) is not transferable or assignable and is valid only for the processor for which it is issued.

(6) *Inspection.* (i) An original Federal processor permit issued under this paragraph (f) must be on site at the shoreside processor at all times. Photocopied or faxed copies are not considered originals.

(ii) A permit issued under this paragraph (f) must be presented for inspection upon the request of any authorized officer.

(g) *Scallop moratorium permits* (applicable through June 30, 2000)—(1) *General*—

(i) *Applicability.* Except as provided under paragraph (g)(2) of this section, any vessel used to take or retain any scallop species in Federal waters must have a valid scallop moratorium permit on board the vessel at all times when the vessel is engaged in fishing for scallops in Federal waters or has scallops taken from Federal waters retained on board. Any vessel used to take or retain scallops in Federal waters within Scallop Registration Area H must have a scallop moratorium permit endorsed for Registration Area H. Any vessel used to take or retain scallop species in Federal waters outside Registration Area H must have a scallop moratorium permit endorsed for Federal waters exclusive of Registration Area H.

(ii) *Applicable dates and duration.* The requirement to carry a moratorium permit is applicable from July 1, 1997, through June 30, 2000. A scallop moratorium permit is valid for the duration of the moratorium unless otherwise specified.

(iii) *Validity.* A scallop moratorium permit issued under this paragraph is valid only if:

(A) A person named on the moratorium permit is the owner or operator of the vessel on which the permit is used.

(B) The vessel's LOA does not exceed the maximum LOA specified on the permit.

(C) The permit has not been revoked or suspended under 15 CFR part 904.

(iv) *Inspection.* A scallop moratorium permit must be presented for inspection upon the request of any authorized officer.

(2) *Exemptions.* A vessel that has an LOA of less than or equal to 26 ft (7.9 m) in the GOA, and less than or equal to 32 ft (9.8 m) in the BSAI and that does not have dredge gear on board is exempt from the requirements of this paragraph (g) when fishing for scallops with dive gear.

(3) *Qualification criteria*—(i) *Qualifying period.* To qualify for a moratorium permit, a vessel must have made a legal landing of scallops during 1991, 1992, or 1993, or during at least 4 separate years from 1980 through 1990.

(ii) *Area endorsements.* A scallop moratorium permit may contain an area endorsement for Federal waters within Registration Area H, for Federal waters outside Registration Area H, or for both areas.

(A) *Registration Area H.* A scallop moratorium permit may be endorsed for fishing in Federal waters within Registration Area H if a qualifying vessel made a legal landing of scallops taken inside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(B) *Waters outside Registration Area H.* A scallop moratorium permit may be endorsed for fishing in Federal waters outside Registration Area H if the qualifying vessel made a legal landing of scallops taken in waters outside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(iii) *Legal landings.* Evidence of legal landings shall be limited to documentation of State or Federal catch reports that indicate the amount of scallops harvested, the registration area or location in which they were caught, the vessel used to catch them, and the date of harvesting, landing, or reporting.

(4) *Maximum LOA*—(i) All scallop moratorium permits will specify a maximum LOA, which will be 1.2 times the LOA of the qualifying vessel on January 20, 1993, unless the qualifying vessel was under reconstruction on January 20, 1993.

(ii) If a qualifying vessel was under reconstruction on January 20, 1993, the maximum LOA will be the LOA on the date reconstruction was completed.

(5) *Application for permit.* A scallop moratorium permit will be issued to the person or successor in interest who was the owner of a qualifying vessel when it most recently made qualifying landings under paragraph (g)(3) of this section, if he/she submits to the Regional Administrator a complete scallop moratorium permit application that is subsequently approved. A complete application for a scallop moratorium permit must include the following information:

(i) Name(s), signature(s), business address(es), and telephone and fax numbers of the person(s) who owned the

vessel when the most recent qualifying landing of scallops occurred.

(ii) Name of the qualifying vessel, state registration number of the vessel and the USCG number of the vessel, if any.

(iii) Valid documentation of the vessel's basis for moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel for the qualifying period.

(iv) Reliable documentation of the vessel's qualifying LOA, if requested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, or other reliable and probative documents that clearly identify the vessel and its LOA and that are dated on or before January 20, 1993.

(v) Name(s) and signature(s) of the person(s) who is/are the owner(s) of the vessel or the person(s) responsible for representing the vessel owner.

(vi) If the qualifying vessel was under reconstruction on January 20, 1993, the permit application must contain the following additional information:

(A) A legible copy of written contracts or written agreements with the firm that performed reconstruction of the vessel and that relate to that reconstruction.

(B) An affidavit signed by the vessel owner(s) and the owner/manager of the firm that performed the reconstruction specifying the beginning and ending dates of the reconstruction.

(C) An affidavit signed by the vessel owner(s) specifying the LOA of the reconstructed vessel.

(6) *Vessel ownership.* Evidence of vessel ownership shall be limited to the following documents, in order of priority:

(i) For vessels required to be documented under the laws of the United States, the USCG abstract of title issued in respect to that vessel.

(ii) A certificate of registration that is determinative as to vessel ownership.

(iii) A bill of sale.

(7) *Permit transfer*—(i) *Applicability.* A moratorium permit transfer is required to effect any change in permit ownership including the addition or subtraction of partners. Area endorsements

may not be transferred independently of a moratorium permit.

(ii) *Required information.* A complete application for approval of transfer of a scallop moratorium permit must include the following:

(A) The original moratorium permit to be transferred.

(B) Name(s), business address(es), and telephone and fax numbers of the applicant(s) including the holders of the scallop moratorium permit that is to be transferred and the person(s) who is to receive the transferred scallop moratorium permit.

(C) Name(s) and signature(s) of the person(s) from whom the moratorium permit would be transferred or their representative, and the person(s) who would receive the transferred moratorium permit or their representative.

(D) A legible copy of a contract or agreement to transfer the moratorium permit in question must be included with the application for transfer that specifies the person(s) from whom the scallop moratorium permit is to be transferred, the date of the transfer agreement, name(s) and signature(s) of the current holder(s) of the permit, and name(s) and signature(s) of person(s) to whom the scallop moratorium permit is to be transferred.

(8) *Appeal*—(i) *Determination.* The Chief, RAM Division, will issue an initial administrative determination to an applicant upon denial of a scallop moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Regional Administrator postmarked within the period specified at § 679.43.

(ii) *Permit denial.* An initial administrative determination that denies an application for a scallop moratorium permit may authorize the affected person to take or retain scallops. Any administrative determination that authorizes fishing will expire on the effective date of the final agency action relating to the application.

(iii) *Final action.* An administrative determination denying the issuance of a scallop moratorium permit is the

final agency action for purposes of judicial review.

(9) *Harvesting privilege.* Scallop moratorium permits issued pursuant to this part do not represent an interest that is subject to the “takings” provision of the 5th Amendment to the U.S. Constitution. Rather, such permits represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable laws.

(h) *High Seas Salmon permits*—(1) *Operators of commercial fishing vessels using power troll gear.* The operator of a fishing vessel using power troll gear may engage in commercial fishing for salmon in the High Seas Salmon Management Area if the operator:

(i) Held a valid State of Alaska power troll permanent entry permit on May 15, 1979, or is a transferee under paragraph (h)(13) of this section from an operator who held such a permit on that date;

(ii) Held a valid State of Alaska power troll interim use permit on May 15, 1979; or

(iii) Holds a High Seas Salmon Fishery permit issued by the Regional Administrator under paragraph (h)(7) of this section.

(2) *Crew members and other persons not the operator of a commercial fishing vessel using power trawl gear.* Crew members or other persons aboard but not the operator of a fishing vessel may assist in the vessel's commercial salmon fishing operations in the High Seas Management Area without a permit if a person described in paragraph (h)(1)(i) through (iii) of this section is also aboard the vessel and is engaged in the vessel's commercial fishing operations.

(3) *Personal use fishing.* Any person who holds a valid State of Alaska sport fishing license may engage in personal use fishing in the High Seas Salmon Management Area.

(4) *Duration.* Authorization under this paragraph (h) to engage in fishing for salmon in the High Seas Salmon Management Area constitutes a use privilege which may be revoked or modified without compensation.

(5) *Eligibility criteria for permits issued by the Regional Administrator.* (i) Any person is eligible to be issued a High Seas Salmon Fishery permit under

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paragraph (h)(7) of this section if that person, during any one of the calendar years 1975, 1976, or 1977:

(A) Operated a fishing vessel in the High Seas Salmon Management Area.

(B) Engaged in commercial fishing for salmon in the High Seas Salmon Management Area.

(C) Caught salmon in the High Seas Salmon Management Area using power troll gear.

(D) Landed such salmon.

(ii) The following persons are not eligible to be issued a High Seas Salmon Fishery permit under paragraph (h)(7) of this section:

(A) Persons described in paragraph (h)(1)(i) or (h)(1)(ii) of this section.

(B) Persons who once held but no longer hold a State of Alaska power troll permanent entry or interim-use permit.

(6) *Application.* Applications for a High Seas Salmon Fishery permit must be in writing, signed by the applicant, and submitted to the Regional Administrator, at least 30 days prior to the date the person wishes to commence fishing, and must include:

(i) The applicant's name, mailing address, and telephone number.

(ii) The vessel's name, USCG documentation number or State of Alaska registration number, home port, length overall, registered tonnage, and color of the fishing vessel.

(iii) The type of fishing gear used by the fishing vessel.

(iv) State of Alaska fish tickets or other equivalent documents showing the actual landing of salmon taken in the High Seas Salmon Management Area by the applicant with power troll gear during any one of the years 1975 to 1977.

(7) *Issuance.* (i) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed application, the Regional Administrator will determine whether the permit eligibility conditions have been met, and if so, will issue a High Seas Salmon Fishery permit.

(ii) If the permit is denied, the Regional Administrator will notify the applicant in accordance with paragraph (h)(16) of this section.

(iii) If an incomplete or improperly completed permit application is filed,

the Regional Administrator will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of receipt of notification, the application shall be considered abandoned.

(8) *Amended application.* Any person who applies for and receives a High Seas Salmon Fishery permit issued under paragraph (h)(7) of this section must notify the Regional Administrator within 30 days of a change in any of the information submitted under paragraph (h)(6) of this section.

(9) *Replacement.* Replacement permits may be issued for lost or unintentionally mutilated permits. An application for a replacement permit shall not be considered a new application.

(10) *Display.* Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be on board the vessel at all times while the vessel is in the High Seas Salmon Management Area.

(11) *Inspection.* Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be presented for inspection upon request by an authorized officer.

(12) *Sanctions.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(13) *Transfer of authority to fish in the High Seas Salmon Management Area—*(i) *State of Alaska power troll permanent entry permits.* The authority of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire upon the transfer of that person's State of Alaska power troll permanent entry permit to another and shall be transferred to the new holder of that permit.

(ii) *Transfer of Authority by the Regional Administrator.* (A) Any person to whom the proposed transfer of a State of Alaska power troll permanent entry permit is denied by the State of Alaska may apply, with the consent of the current holder of that permit, to the Regional Administrator for transfer to the applicant of the current holder's authority to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area.

(B) The application for transfer shall be filed with the Regional Administrator within 30 days of the denial by the State of Alaska of the proposed transfer of the permit.

(C) The application for transfer shall include all documents and other evidence submitted to the State of Alaska in support of the proposed transfer of the permit and a copy of the State of Alaska's decision denying the transfer of the permit. The Regional Administrator may request additional information from the applicant or from the State of Alaska to assist in the consideration of the application.

(D) The Regional Administrator shall approve the transfer if it is determined that:

(1) The applicant had the ability to participate actively in the fishery at the time the application for transfer of the permit was filed with the State of Alaska.

(2) The applicant has access to power troll gear necessary for participation in the fishery.

(3) The State of Alaska has not instituted proceedings to revoke the permit on the ground that it was fraudulently obtained.

(4) The proposed transfer of the permit is not a lease.

(E) Upon approval of the transfer application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon in the High Seas Salmon Management Area using power troll gear shall expire, and that authority shall be transferred to the applicant.

(14) *Other Permits.* (i) Except for emergency transfers under paragraph (h)(15) of this section, the authority of any person described in paragraph (h)(1)(ii), (h)(1)(iii), or (h)(3) of this section to fish for salmon in the High Seas Salmon Management Area, may not be transferred to any other person.

(ii) Except for emergency transfers under paragraph (h)(15) of this section, the authority to engage in commercial fishing for salmon which was transferred under paragraph (h)(13)(ii) of this section may not be transferred to any other person except the current holder of the State of Alaska power troll permanent entry permit from

which that authority was originally derived.

(iii) The authority described in paragraph (h)(14)(ii) of this section may be transferred to the current holder of that permit upon receipt of written notification of the transfer by the Regional Administrator.

(15) *Emergency transfers—authority to use power troll gear.* (i) The authority of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area may be transferred to another person for a period not lasting beyond the end of the calendar year of the transfer when sickness, injury, or other unavoidable hardship prevents the holder of that authority from engaging in such fishing.

(ii) Such a transfer shall take effect automatically upon approval by the State of Alaska of an emergency transfer of a State of Alaska power troll entry permit, in accordance with the terms of the permit transfer.

(iii) Any person may apply to the Regional Administrator for emergency transfer of the current holder's authority to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area for a period not lasting beyond the calendar year of the proposed transfer, if a person:

(A) Is denied emergency transfer of a State of Alaska power troll entry permit by the State of Alaska; or

(B) Requests emergency transfer of a Federal commercial power troll permit previously issued by the Regional Administrator, with the consent of the current holder of that permit.

(iv) The Regional Administrator shall approve the transfer if he determines that:

(A) Sickness, injury, or other unavoidable hardship prevents the current permit holder from engaging in such fishing.

(B) The applicant had the ability to participate actively in the fishery at the time the application for emergency transfer of the permit was filed with the State of Alaska or, in the case of a Federal permit, with the Regional Administrator.

(C) The applicant has access to power troll gear necessary for participation in the fishery.

(D) The State of Alaska has not instituted proceedings to revoke the permit on the grounds that it was fraudulently obtained.

(v) The application in the case of a State of Alaska permit shall be filed with the Regional Administrator within 30 days of the denial by the State of Alaska of emergency transfer of the permit.

(vi) The application shall include all documents and other evidence submitted to the State of Alaska in support of the proposed emergency transfer of the permit and a copy of the State of Alaska's decision denying the emergency transfer of the permit. The Regional Administrator may request additional information from the applicant or from the State of Alaska to assist in the consideration of the application.

(vii) Upon approval of the application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire for the period of the emergency transfer, and that authority shall be transferred to the applicant for that period.

(16) *Appeals and hearings.* (i) A decision by the Regional Administrator to deny a permit under paragraph (h)(7) of this section or to deny transfer of authority to engage in commercial fishing for salmon in the High Seas Salmon Management Area under paragraphs (h)(13) and (h)(14) of this section will:

(A) Be in writing.

(B) State the facts and reasons therefor.

(C) Advise the applicant of the rights provided in this paragraph (h)(16).

(ii) Any such decision of the Regional Administrator shall be final 30 days after receipt by the applicant, unless an appeal is filed with the NOAA/NMFS Assistant Administrator within that time.

(iii) Failure to file a timely appeal shall constitute waiver of the appeal.

(iv) Appeals under this paragraph (h)(16) must:

(A) Be in writing.

(B) Set forth the reasons why the appellant believes the Regional Administrator's decision was in error.

(C) Include any supporting facts or documentation.

(v) At the time the appeal is filed with the Assistant Administrator, the appellant may request a hearing with respect to any disputed issue of material fact. Failure to request a hearing at this time will constitute a waiver of the right to request a hearing.

(vi) If a hearing is requested, the Assistant Administrator may order an informal fact-finding hearing if it is determined that a hearing is necessary to resolve material issues of fact and shall so notify the appellant.

(vii) If the Assistant Administrator orders a hearing, the order will appoint a hearing examiner to conduct the hearing.

(viii) Following the hearing, the hearing examiner shall promptly furnish the Assistant Administrator with a report and appropriate recommendations.

(ix) As soon as practicable after considering the matters raised in the appeal, and any report or recommendation of the hearing examiner in the event a hearing is held under this paragraph (h)(16), the Assistant Administrator shall decide the appeal.

(x) The Assistant Administrator shall promptly notify the appellant of the final decision. Such notice shall set forth the findings of the Assistant Administrator and set forth the basis of the decision. The decision of the Assistant Administrator shall be the final administrative action of the Department of Commerce.

(i) *Experimental fisheries permits.* (See § 679.6.)

(j) *Salmon donation program permits.* (See § 679.26(a)(3).)

(k) *Licenses for license limitation groundfish or crab species—*(1) *General requirements.* (i) In addition to the permit and licensing requirements prescribed in this part, and except as provided in paragraph (i)(2) of this section, each vessel within the GOA or the BSAI must have a groundfish license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for license limitation groundfish. This groundfish license,

issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for license limitation groundfish only in the specific area(s) designated on the license and may only be used on a vessel that complies with the vessel designation and MLOA specified on the license.

(ii) In addition to the permit and licensing requirements prescribed in this part, and except as provided in paragraph (i)(2) of this section, each vessel within the Bering Sea and Aleutian Islands Area must have a crab species license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for crab species. This crab species license, issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for crab species only for the specific species and in the specific area(s) designated on the license, and may be used only on a vessel that complies with the vessel designation and MLOA specified on the license.

(2) *Exempt vessels.* Notwithstanding the requirements of paragraph (i)(1) of this section,

(i) A catcher vessel or catcher/processor vessel that does not exceed 26 ft (7.9 m) LOA may conduct directed fishing for license limitation groundfish in the GOA without a groundfish license;

(ii) A catcher vessel or catcher/processor vessel that does not exceed 32 ft (9.8 m) LOA may conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license and may conduct directed fishing for crab species in the Bering Sea and Aleutian Islands Area without a crab species license;

(iii) A catcher vessel or catcher/processor vessel that does not exceed 60 ft (18.3 m) LOA may use a maximum of 5 jig machines, one line per jig machine, and a maximum of 15 hooks per line, to conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license; or

(iv) A catcher vessel or catcher/processor vessel that does not exceed 125 ft (38.1 m) LOA, and that was, after November 18, 1992, specifically constructed for and used exclusively in accordance with a CDP approved by

NMFS under Subpart C of this part, and is designed and equipped to meet specific needs that are described in the CDP may conduct directed fishing for license limitation groundfish in the GOA and in the BSAI area without a groundfish license and for crab species in the Bering Sea and Aleutian Islands Area without a crab species license.

(3) *Vessel designations and vessel length categories*—(i) *General.* A license can be used only on a vessel that complies with the vessel designation specified on the license and that has an LOA less than or equal to the MLOA specified on the license.

(ii) *Vessel designations*—(A) *Catcher/processor vessel.* A license will be assigned a catcher/processor vessel designation if:

(1) For license limitation groundfish, license limitation groundfish were processed on the vessel that qualified for the groundfish license under paragraph (i)(4) of this section during the period January 1, 1994, through June 17, 1995, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (i)(4)(ii) of this section; or

(2) For crab species, crab species were processed on the vessel that qualified for the crab species license under paragraph (i)(5) of this section during the period January 1, 1994, through December 31, 1994, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (i)(5)(ii) of this section.

(3) For purposes of paragraphs (i)(3)(ii)(A)(1) and (i)(3)(ii)(A)(2) of this section, evidence of processing must be demonstrated by Weekly Production Reports or other valid documentation demonstrating that processing occurred on the vessel during the relevant period.

(B) *Catcher vessel.* A license will be assigned a catcher vessel designation if it does not meet the criteria in paragraph (i)(3)(ii)(A)(1) or (i)(3)(ii)(A)(2) of this section to be assigned a catcher/processor vessel designation.

(C) *Changing a vessel designation.* A person who holds a groundfish license or a crab species license with a catcher/processor vessel designation may, upon

request to the Regional Administrator, have the license reissued with a catcher vessel designation. The vessel designation change to a catcher vessel will be permanent, and that license will be valid for only those activities specified in the definition of catcher vessel designation at § 679.2.

(iii) *Vessel length categories.* A vessel's eligibility will be determined using the following three vessel length categories, which are based on the vessel's LOA on June 17, 1995, or, if the vessel was under reconstruction on June 17, 1995, the vessel's length on the date that reconstruction was completed.

(A) Vessel length category "A" if the LOA of the qualifying vessel on the relevant date was equal to or greater than 125 ft (38.1 m) LOA.

(B) Vessel length category "B" if the LOA of the qualifying vessel on the relevant date was equal to or greater than 60 ft (18.3 m) but less than 125 ft (38.1 m) LOA.

(C) Vessel length category "C" if the LOA of the qualifying vessel on the relevant date was less than 60 ft (18.3 m) LOA.

(4) *Qualifications for a groundfish license.* A groundfish license will be issued to an eligible applicant that meets the criteria in paragraphs (i)(4)(i) and (i)(4)(ii) of this section. For purposes of the license limitation program, evidence of a documented harvest must be demonstrated by a state catch report, a Federal catch report, or other valid documentation that indicates the amount of license limitation groundfish harvested, the groundfish reporting area in which the license limitation groundfish was harvested, the vessel and gear type used to harvest the license limitation groundfish, and the date of harvesting, landing, or reporting. State catch reports are Alaska, California, Oregon, or Washington fish tickets. Federal catch reports are Weekly Production Reports required under § 679.5.

(i) *General qualification periods (GQP).* (A) At least one documented harvest of any amount of license limitation groundfish species must have been made from a vessel to qualify for one or more of the area endorsements in paragraphs (i)(4)(ii)(A) and (i)(4)(ii)(B) of this section. This documented har-

vest must have been of license limitation groundfish species caught and retained in the BSAI or in the State waters shoreward of the BSAI and must have occurred during the following periods:

(1) January 1, 1988, through June 27, 1992;

(2) January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or

(3) January 1, 1988, through June 17, 1995, provided that the vessel qualified for a gear endorsement under the Vessel Moratorium based on criteria specified at § 679.4(c)(5)(ii)(B) or § 679.4(c)(5)(iv)(B).

(B) At least one documented harvest of any amount of license limitation groundfish species must have been made from a vessel to qualify for one or more of the area endorsements in paragraphs (i)(4)(ii)(C) through (i)(4)(ii)(E) of this section. This documented harvest must have been of fish caught and retained in the GOA or in the State waters shoreward of the GOA and must have occurred during the following periods:

(1) January 1, 1988, through June 27, 1992;

(2) January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or

(3) January 1, 1988, through June 17, 1995, provided that the vessel qualified for a gear endorsement under the Vessel Moratorium based on criteria specified at § 679.4(c)(5)(ii)(B) or § 679.4(c)(5)(iv)(B).

(ii) *Endorsement qualification periods (EQP).* A groundfish license will be assigned one or more area endorsements based on the criteria in paragraphs (i)(4)(ii)(A) through (i)(4)(ii)(E) of this section.

(A) *Aleutian Islands area endorsement.* For a license to be assigned an Aleutian Islands endorsement, at least one documented harvest of any amount of license limitation groundfish must have been made from a vessel in any vessel length category (vessel categories "A" through "C") between January 1, 1992, and June 17, 1995, and in

the Aleutian Islands Subarea or in State waters shoreward of that subarea.

(B) *Bering Sea area endorsement.* For a license to be assigned a Bering Sea area endorsement, at least one documented harvest of any amount of license limitation groundfish must have been made from a vessel in any vessel length category (vessel categories “A” through “C”) between January 1, 1992, and June 17, 1995, and in the Bering Sea Subarea or in State waters shoreward of that subarea.

(C) *Western Gulf area endorsement—(1) Vessel length category “A”.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category “A”, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in State waters shoreward of that area.

(2) *Vessel length category “B” and catcher vessel designation.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category “B” and that would qualify for a catcher vessel designation under this section, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in State waters shoreward of that area.

(3) *Vessel length category “B” and catcher/processor vessel designation.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category “B” and that would qualify for a catcher/processor vessel designation under this section, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in State waters shoreward of that area, or at least four documented harvests of any amount of license limitation groundfish harvested from January 1, 1995, through June 17, 1995, in the

Western Area of the Gulf of Alaska or in State waters shoreward of that area.

(4) *Vessel length category “C”.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category “C”, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995. This documented harvest must have recorded a harvest occurring in the Western Area of the Gulf of Alaska or in State waters shoreward of that area for a Western Gulf area endorsement.

(D) *Central Gulf area endorsement—(1) Vessel length category “A”.* For a license to be assigned a Central Gulf area endorsement based on the participation of a vessel in vessel length category “A”, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Central Area of the Gulf of Alaska or in State waters shoreward of that area, or in the West Yakutat District or in state waters shoreward of that district.

(2) *Vessel length category “B”.* For a license to be assigned a Central Gulf area endorsement based on the participation from a vessel in vessel length category “B”, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995, or at least four documented harvests from January 1, 1995, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Central Area of the Gulf of Alaska or in State waters shoreward of that area, or in the West Yakutat District or in state waters shoreward of that district.

(3) *Vessel length category “C”.* For a license to be assigned a Central Gulf area endorsement based on the participation from a vessel in vessel length category “C”, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992,

through June 17, 1995. This documented harvest must have recorded a harvest occurring in the Central Area of the Gulf of Alaska or in State waters shoreward of that area, or in the West Yakutat District or in state waters shoreward of that district.

(E) *Southeast Outside area endorsement—(1) Vessel length category "A".* For a license to be assigned a Southeast Outside area endorsement based on the participation from a vessel in vessel length category "A", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Southeast Outside District or in State waters shoreward of that district.

(2) *Vessel length category "B".* For a license to be assigned a Southeast Outside area endorsement based on the participation from a vessel in vessel length category "B", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995, or at least four documented harvests from January 1, 1995, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Southeast Outside District or in State waters shoreward of that district.

(3) *Vessel length category "C".* For a license to be assigned a Southeast outside area endorsement based on the participation from a vessel in vessel length category "C", at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995. This documented harvest must have recorded a harvest occurring in the Southeast Outside District or in State waters shoreward of that district.

(iii) An eligible applicant that is issued a groundfish license based on a vessel's qualifications under paragraph (i)(4)(i)(A)(2) or (i)(4)(i)(B)(2) of this section must choose only one area endorsement for that groundfish license even if the vessel qualifies for more than one area endorsement.

(iv) Notwithstanding the provisions in paragraph (i)(4) of this section, a license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements of paragraph (i)(4)(i)(A), and the requirements of paragraph (i)(4)(ii)(C), (i)(4)(ii)(D), or (i)(4)(ii)(E) of this section, but

(A) From whose vessel no documented harvests were made in the GOA or state waters shoreward of the GOA between January 1, 1988, and June 27, 1992, and

(B) From whose vessel no documented harvests were made in the BSAI or state waters shoreward of the BSAI between January 1, 1992, and June 17, 1995.

(v) Notwithstanding the provisions of paragraph (i)(4) of this section, a license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements of paragraph (i)(4)(i)(B) of this section, and the requirements of paragraph (i)(4)(ii)(A) or (i)(4)(ii)(B) of this section, but

(A) From whose vessel no documented harvests were made in the BSAI or state waters shoreward of the BSAI between January 1, 1988, and June 27, 1992, and

(B) From whose vessel no documented harvests were made in the GOA or state waters shoreward of the GOA between January 1, 1992, and June 17, 1995.

(5) *Qualifications for a crab species license.* A crab species license will be issued to an eligible applicant who owned a vessel that meets the criteria in paragraphs (i)(5)(i) and (i)(5)(ii) of this section, except that vessels are exempt from the requirements in paragraph (i)(5)(i) of this section for the area/species endorsements in paragraph (i)(5)(ii)(A) and (i)(5)(ii)(G) of this section.

(i) *General qualification period (GQP).* To qualify for one or more of the area/species endorsements in paragraph (i)(5)(ii) of this section:

(A) At least one documented harvest of any amount of crab species must have been made from a vessel between January 1, 1988, and June 27, 1992; or

(B) At least one documented harvest of any amount of crab species must

have been made from a vessel between January 1, 1988, and December 31, 1994, providing that the vessel from which the documented harvest was made qualified for a gear endorsement under the Vessel Moratorium based on criteria specified at § 679.4(c)(5)(i)(B).

(ii) *Area/Species Endorsements.* A crab species license will be assigned one or more area/species endorsements specified at § 679.2 based on the criteria in paragraphs (i)(5)(ii)(A) through (G) of this section.

(A) *Pribilof red king and Pribilof blue king.* At least one documented harvest of any amount of red king or blue king crab harvested in the area described in the definition for the Pribilof red king and Pribilof blue king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1993, and December 31, 1994, to qualify for a Pribilof red king and Pribilof blue king area/species endorsement.

(B) *Bering Sea and Aleutian Islands Area C. opilio and C. bairdi.* At least three documented harvests of any amount of *C. opilio* or *C. bairdi* crab harvested in the area described in the definition for the Bering Sea and Aleutian Islands Area *C. opilio* or *C. bairdi* area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a *C. opilio* and *C. bairdi* area/species endorsement.

(C) *St. Matthew blue king.* At least one documented harvest of any amount of blue king crab harvested in the area described in the definition for the St. Matthews blue king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a St. Matthew blue king area/species endorsement.

(D) *Aleutian Islands brown king.* At least three documented harvests of any amount of brown king crab harvested in the area described in the definition for the Aleutian Islands brown king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a Aleutian Islands brown king area/species endorsement.

(E) *Aleutian Islands red king.* At least one documented harvest of any amount

of red king crab harvested in the area described in the definition for the Aleutian Islands red king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a Aleutian Islands red king area/species endorsement.

(F) *Bristol Bay red king.* At least one documented harvest of any amount of red king crab harvested in the area described in the definition for the Bristol Bay red king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1991, and December 31, 1994, to qualify for a Bristol Bay red king area/species endorsement.

(G) *Norton Sound red king and Norton Sound blue king.* At least one documented harvest of any amount of red king or blue king crab harvested in the area described in the definition for the Norton Sound red king and Norton Sound blue king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1993, and December 31, 1994, to qualify for a Norton Sound red king and Norton Sound blue king area/species endorsement.

(6) *Application for a groundfish license or a crab species license.* [Reserved].

(7) *Transfers.* [Reserved].

(8) *Other provisions.* (i) Any person committing, or a fishing vessel used in the commission of, a violation of the Magnuson-Stevens Fishery Conservation and Management Act or any regulations issued pursuant thereto, is subject to the civil and criminal penalty provisions and the civil forfeiture provisions of the Magnuson-Stevens Fishery Conservation and Management Act, part 621 of this chapter, 15 CFR part 904 (Civil Procedure), and other applicable law. Penalties include, but are not limited to, permanent or temporary sanctions to licenses.

(ii) Notwithstanding the provisions of the license limitation program in this part, vessels fishing for species other than license limitation groundfish as defined in § 679.2 that were authorized under Federal regulations to incidentally catch license limitation groundfish without a Federal fisheries permit described at § 679.4(b) will continue to be authorized to catch the maximum retainable bycatch amounts of license

limitation groundfish as provided in this part without a groundfish license.

(iii) An eligible applicant, who qualifies for a groundfish license or crab species license but whose vessel on which the eligible applicant's qualification was based was lost or destroyed, will be issued a license. This license:

(A) Will have the vessel designation of the lost or destroyed vessel.

(B) Cannot be used to conduct directed fishing for license limitation groundfish or to conduct directed fishing for crab species on a vessel that has an LOA greater than the MLOA designated on the license.

(iv) A qualified person who owned a vessel on June 17, 1995, that made a documented harvest of license limitation groundfish, or crab species if applicable, between January 1, 1988, and February 9, 1992, but whose vessel was unable to meet all the criteria in paragraph (i)(4) of this section for a groundfish license or paragraph (i)(5) of this section for a crab species license because of an unavoidable circumstance (i.e., the vessel was lost, damaged, or otherwise unable to participate in the license limitation groundfish or crab fisheries) may receive a license if the qualified person is able to demonstrate that:

(A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel during a specific time period in a specific area.

(B) The specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel was thwarted by a circumstance that was:

(1) Unavoidable.

(2) Unique to the owner of that vessel, or unique to that vessel.

(3) Unforeseen and reasonably unforeseeable to the owner of the vessel.

(C) The circumstance that prevented the owner from conducting directed fishing for license limitation groundfish or crab species actually occurred.

(D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstance that prevented the owner from con-

ducting directed fishing for license limitation groundfish or crab species.

(E) Any amount of license limitation groundfish or appropriate crab species was harvested on the vessel in the specific area that corresponds to the area endorsement or area/species endorsement for which the qualified person who owned a vessel on June 17, 1995, is applying and that the license limitation groundfish or crab species was harvested after the vessel was prevented from participating by the unavoidable circumstance but before June 17, 1995.

(v) A groundfish license or a crab species license may be used on a vessel that complies with the vessel designation on the license and that does not exceed the MLOA on the license.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35578, July 5, 1996; 61 FR 41525, Aug. 9, 1996; 61 FR 56430, Nov. 1, 1996; 62 FR 2045, Jan. 15, 1997; 62 FR 17752, 17756, Apr. 11, 1997; 62 FR 19688, Apr. 23, 1997; 63 FR 47356, Sept. 4, 1998; 63 FR 52654, Oct. 1, 1998; 63 FR 54753, Oct. 13, 1998]

EFFECTIVE DATE NOTES: 1. At 62 FR 17752, Apr. 11, 1997, § 679.4 was amended by adding a new paragraph (g), effective May 12, 1997 through June 30, 2000, except for paragraph (g)(1)(ii) which is effective July 1, 1997 through June 30, 2000.

2. At 63 FR 47356, Sept. 4, 1998, § 679.4 was amended in paragraph (f)(1) by removing the final "s" from the word "States" that follows the word "Alaska;" and by adding paragraphs (i) and (j), effective Oct. 5, 1998.

3. At 63 FR 52654, Oct. 1, 1998, § 679.4 was amended by adding paragraphs (a)(6) and (i)(1), (i)(2), (i)(7), (i)(8)(i) and (ii), effective Jan. 1, 2000. Paragraphs (i)(3), (i)(4), (i)(5), (i)(6), (i)(8)(iii), and (i)(8)(iv) were added effective Jan. 1, 1999. At 63 FR 54753, Oct. 13, 1998, paragraph (i) was correctly designated as paragraph (k).

§ 679.5 Recordkeeping and reporting.

(a) *General requirements*—(1) *Applicability, Federal fisheries permit*. Except as provided in paragraphs (a)(1)(iii) and (iv) of this section, the following participants must comply with the recordkeeping and reporting requirements of this section:

(i) Any catcher vessel, mothership, catcher/processor, or tender vessel, 5 net tons or larger, that is required to have a Federal fisheries permit under § 679.4.